DOCUMENT RESUME

ED 300 918 EA 020 484

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TITLE The Impact Aid Programs (P.L. 81-874 and P.L. 81-815): Modifications Resulting from the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. (P.L. 100-297). CRS Report to Congress.
INSTITUTION Library of Congress, Washington, D.C. Congressional Research Service.
REPORT NO EPW-88-399
PUB DATE 31 May 88
NOTE 19p.
PUB TYPE Reports - Research/Technical (143) -- Legal/Legislative/Regulatory Materials (090)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Educational Finance; Elementary Secondary Education; *Federal Aid; *Federal Legislation; *Federal Programs; *Federal State Relationship; Financial Support; *Government School Relationship; *School Districts
IDENTIFIERS *Impact Aid

ABSTRACT

This report discusses significant modifications to the Impact Aid programs (Public Law 81-874 and Public Law 81-815), as a result of Public Law (P.L. 100-297 (the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988). These changes include extending the authority for P.L. 81-874 and P.L. 81-815 through fiscal year 1993; simplifying the determination of maximum payments under major sections of P.L. 81-874; changing the percentage of previous year grants that some districts receive as preliminary payments under P.L. 81-874; creating a new system for P.L. 81-874 payments when appropriations are insufficient for fully funding the program; and specifying "hold harmless" rules for payment to some types of districts. This report discusses these and other changes in Impact Aid resulting from P.L. 100-297. Possible effects of P.L 100-297 on Impact Aid are also discussed. Appended are additional ammendments to P.L. 81-874 and P.L. 81-815. (SI)

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88-399 EPW

CRS REPORT TO CONGRESS

THE IMPACT AID PROGRAMS (P.L. 81-874 AND P.L. 81-815): MODIFICATIONS RESULTING FROM THE AUGUSTUS F. HAWKINS-ROBERT T. STAFFORD ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT AMENDMENTS OF 1988 (P.L. 100-297)

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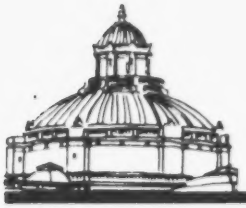

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THE IMPACT AID PROGRAMS (P.L. 81-874 AND P.L. 81-815): MODIFICATIONS RESULTING FROM THE AUGUSTUS F. HAWKINS-ROBERT T. STAFFORD ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT AMENDMENTS OF 1988 (P.L. 100-297)

SUMMARY

Although P.L. 100-297 (the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988) has not fundamentally altered the Impact Aid programs (P.L. 81-874 and P.L. 81-815), it has made significant modifications in Impact Aid. These changes include extending the authority for P.L. 81-874 and P.L. 81-815 through FY 1993; simplifying the determination of maximum payments under major sections of P.L. 81-874; changing the percentage of previous year grants that some districts receive as preliminary payments under P.L. 81-874; creating a new system for P.L. 81-874 payments when appropriations are insufficient for fully funding the program; and specifying "hold harmless" rules for payment to some types of districts. This report discusses these and other changes in Impact Aid resulting from P.L. 100-297.

INTRODUCTION

P.L. 100-297 (the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988) 1/ has made significant changes in the Impact Aid programs; however, the Act has not fundamentally changed these programs, which operate under companion pieces of legislation: P.L. 81-874 and P.L. 81-815. P.L. 81-874 provides financial assistance to local school districts in which the Federal Government owns significant amounts of property, thereby reducing local property tax revenues used for schools (section 2); in which Federal activity results in an increase in the number of students requiring public education (section 3); or in which natural disaster necessitates repair of school facilities (section 7). P.L. 81-815 provides funds to local school districts for the construction and repair of "urgently needed minimal school facilities" for so called "federally connected" children (i.e., Indian children residing on Federal Indian lands and children whose parent live and/or work on Federal property or are members of the uniformed services).

Although the Hawkins-Stafford Act has not essentially altered Impact Aid, it has made some important changes and additions to the Impact Aid programs. These include:

- o Extending authority for P.L. 81-874 and P.L. 81-815 through FY 1993,
- o Simplifying the determination of maximum payments under sections 3(a) and 3(b) 2/ of P.L. 81-874,

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1/ For the sake of brevity, the amendments will be referred to as the Hawkins-Stafford Act or as P.L. 100-297.

2/ Section 3(a) provides payments based on the number of students whose parents live and work on Federal property, and students who reside on Indian lands. Section 3(b) bases payments on the number of students whose parents live or work on Federal property.

- Changing the percentage of previous year grants that some districts receive as preliminary payments under sections 2 and 3,
- Creating a new payment distribution system for section 2 and section 3 payments when appropriations for P.L. 81-874 are less than authorizations levels, and
- Specifying "hold harmless" rules for some categories of districts.

The next five sections discuss each of these changes in Impact Aid. The sixth section outlines other, less significant, changes and amendments to the Impact Aid Acts. The final section discusses possible effects of P.L. 100-297 on Impact Aid.

AUTHORIZATION LEVELS FOR P.L. 81-874 AND P.L. 81-815

The following table presents the authorization levels for the Impact Aid programs specified in the Hawkins-Stafford Act. 3/

Fiscal year	P.L. 81-874	P.L. 81-815
1989	$735,000,000	$25,000,000
1990	785,000,000	26,000,000
1991	835,000,000	27,000,000
1992	885,000,000	28,000,000
1993	935,000,000	29,000,000

SIMPLIFICATION OF 3(a) AND 3(b) ENTITLEMENTS 4/

Section 3 payments are based on some percentage of the Local Contribution Rate (LCR) 5/ multiplied by the number of students in a given category. In the past, entitlements varied according to different subgroups of 3(a) and 3(b) students. For example, 3(b) entitlements varied between 1.5 percent and 17

3/ The following are the authorization levels for P.L. 81-874 for FY 1985-1988 (as specified by the Education Amendments of 1984, P.L. 98-511) and the appropriations for those years.

Fiscal year	Authorization	Appropriation
1985	$740,000,000	$675,000,000
1986	760,000,000	665,975,000
1987	780,000,000	695,000,000
1988	800,000,000	685,498,000

P.L. 81-815 authorizes "such sums as may be necessary" to carry out provisions of the Act.

4/ Here "entitlement" refers to the maximum payment an eligible district can receive under P.L. 81-874.

5/ The LCR is defined as the average amount of current educational expenditures derived from local revenue.

percent of the LCR, depending on the type of 3(b) student. 6/ The Hawkins-Stafford Act simplifies the determination of districts' entitlements by specifying that the entitlement for all 3(a) students is based on 100 percent of the LCR and 25 percent of the LCR for all 3(b) students.

PRELIMINARY SECTION 2 AND 3 PAYMENTS

The Hawkins-Stafford Act changes the maximum preliminary payments to some districts and the timing of such payments. 7/ Previously, P.L. 81-874 directed the Department of Education (ED) to pay those districts applying for preliminary districts an amount equal to 75 percent of their payment in the previous fiscal year. Such payments were to be made within the first 30 days after the beginning of the fiscal year. The Hawkins-Stafford Act amends sec. 5(b)(2) of P.L. 81-874 to provide preliminary payments equal to 75 percent of the previous year's payment only for "super a" districts. 8/ All other districts applying for preliminary payments are to receive payments equal to 50 percent of the previous payment. ED is to make these payments "as soon as possible after the beginning of any fiscal year."

6/ For further discussion, see U.S. Library of Congress. Congressional Research Service. School Assistance for Federally Affected Areas (Impact Aid): Background and Reauthorization Options for P.L. 81-874. CRS Report for Congress No. 87-606, by K. Forbis Jordan. Washington, 1987.

7/ Preliminary payments are helpful to school districts because Impact Aid is a current-funded program. I.e., funds appropriated for a given fiscal year fund activities in that school year. (Most other Federal education programs are forward-funded program; that is, funds appropriated for 1 fiscal year are used for activities in the next school year.) Preliminary payments of Impact Aid funds help stabilize school district finances if Federal appropriations are delayed until after the beginning of the fiscal year.

8/ These are districts with average daily attendance composed of at least 20 percent 3(a) students.

SYSTEM FOR DETERMINING PAYMENTS

If appropriations are insufficient for fully funding Impact Aid payments, the Hawkins-Stafford Act specifies a payment distribution system for section 2 and section 3 payments based on districts' percentages and types of federally connected students. 9/ The following outlines the priority in which section 2 and section 3 funds are distributed under P.L. 100-297:

1. Districts entitled to section 2 and 3(d)(2)(B) 10/ payments receive 100 percent of their entitlement.

2. Districts receive 50 percent of their entitlement for handicapped students who are federally connected.

3. Of the remaining funds (except for funds needed for sec. 7), 80 percent are reserved for payments under sec. 3(a) and 20 percent for sec. 3(b) payments.

4. Section 3(a) payments are then distributed according to the following table:

Type of district	Percentage of 3(a) children in district	Percentage of entitlement Step 1	Step 2	Step 3
"Super a"	20-100%	80%	20%	0%
"Sub-super a"	15- 19.9%	60%	15%	25%
"Regular a"	0- 14.9%	40%	10%	50%

9/ Recently, language in appropriations legislation has superceded methods for making Impact Aid payments that are specified in P.L. 81-874. For example, the Further Continuing Resolution of 1988 (P.L. 100-202) specified that districts whose average daily attendance was at least 20 percent 3(a) students received 100 percent of their 3(a) entitlement; those districts with 15 percent to 19.9 percent 3(a) students received 75 percent of their 3(a) entitlement; and those with fewer than 15 percent 3(a) students had their entitlements ratably reduced to the aggregate level of remaining available appropriations.

10/ Section 3(d)(2)(B) authorizes the Secretary of Education to make additional payments on a discretionary basis to school districts that could not otherwise provide education equivalent to that provided by comparable school districts in its State, if at least 50 percent of the district's total average daily attendance is comprised of federally connected students.

Each step is applied successively. For example, the first step requires that "super a" districts receive 80 percent of their entitlements from the funds reserved for section 3(a) payments; then "sub-super a's" receive 60 percent of their payments; and finally "regular a's" receive 40 percent of their payments. Next, the percentages for step 2 are applied. If there are sufficient funds, at the end of step 2, "super a's" would receive 100 percent of their entitlement, "sub-super a's" would receive 75 percent, and "regular a's" would receive 50 percent.

If money is insufficient for full funding of any step, "super a" districts receive 72 percent of the funds available, "sub-super a" districts receive 3 percent of the funds, and "regular a" districts receive 25 percent.

5. Section 3(b) payments are distributed according to the following table:

Type of district	Percentage of 3(b) children in district	Percentage of entitlement Step 1	Step 2	Step 3
"Super b"	20-100%	20%	30%	50%
"Regular b"	15-19.9%	10%	5%	85%

Again, these steps are applied successively to funds reserved for 3(b) payments. If money is insufficient for full funding of any step, "super b" districts receive 75 percent of the funds available and "regular b" districts receive 25 percent of the funds.

SECTION 3 "HOLD HARMLESS" PROVISIONS

The Hawkins-Stafford Act provides that all 3(a) payments and payments for "super b" districts 11/ would be "held harmless" at FY 1987 levels, unless the status of the district has changed (e.g., a "super b" district has become a "regular b") or unless appropriations are insufficient for full payment under this provision. In the latter case, amounts would be reduced proportionately.

OTHER AMENDMENTS TO THE IMPACT AID PROGRAMS

The previous sections discussed the changes in Impact Aid programs resulting from the Hawkins-Stafford Act that likely will affect most or all districts receiving Impact Aid funds. This section discusses additional, less significant changes. (For further information on these changes, see the appendix). Some of these changes are technical amendments to the Impact Aid Acts and will have virtually no impact on the program. For example, the Act changes references to the "Commissioner" in P.L. 81-874 and P.L. 81-815 to the "Secretary" of Education. Other provisions may have a significant effect on some districts but apply only to small numbers of districts. For example, several provisions involve districts that have the same boundaries as military bases (the "coterminous" districts). Other changes refer to highly impacted districts that cannot provide education equivalent to comparable districts in their States (the 3(d)(2)(B) districts). Currently there are six districts that qualify as coterminous districts. In FY 1986 four districts were eligible for 3(d)(2)(B) payments. Overall, 2,664 districts received section 3 payments in 1987.

11/ These are districts for which 3(b) students make up at least 20 percent of the average daily attendance.

POSSIBLE EFFECTS OF P.L. 100-297 ON IMPACT AID

At this point, without extensive computer analysis, which ED is undertaking, it is impossible to determine the precise implications of the Hawkins-Stafford Act for Impact Aid payments. However, some general implications can be drawn from the provisions of the Act. Overall, it appears that the Act would not significantly change payments to districts. At the same time, there could be some marginal changes resulting from the Hawkins-Stafford Act. For example, some districts would receive less initial funding, as a result of changes in preliminary payments provisions, and all districts may have to wait longer for preliminary payments because ED is required to make these payments "as soon as possible" after the fiscal year begins, instead of within the first 30 days of the fiscal year.

On the whole, however, one would expect FY 1989 Impact Aid payments to be similar to those in FY 1988. There are several reasons for this. First and most important, the "hold harmless" provisions of the Hawkins-Stafford Act would maintain 3(a) payments and payments for "super b" districts at no less than FY 1987 payments. Second, P.L. 81-815 and section 2 of P.L. 81-874 have not been significantly changed by the Hawkins-Stafford Act. 12/ Third, although the entitlement for 3(a) payments would rise slightly and 3(b) entitlements would increase significantly (as much as $300 million, according to ED), appropriations for Impact Aid in recent years have been insufficient for full funding of the programs. Consequently the tier payment system, which gives priority to 3(a) payments and to highly impacted districts, would take effect,

12/ Section 2 payments are likely to decline because of recent regulations governing this section. For further information, see U.S. Library of Congress. Congressional Research Service. Section 2 of P.L. 81-874, Federal Impact Aid to Local School Districts: Background, Funding History, and Recent Regulations. CRS Report for Congress No. 88-220 EPW, by Richard N. Apling. Washington, 1988.

resulting in most 3(b) districts receiving a small percentage of their entitlement. At the same time, although the new tier payment system favors the highly impacted districts (the "super a's" and "super b's"), these districts also received the bulk of Impact Aid payments in the past. According to ED estimates, "super a" districts received 63 percent of FY 1987 sec. 3 payments and "super b's" received 25 percent of such payments. Again, one would expect little change resulting from the Hawkins-Stafford Act. Finally, the Congress may decide--as it has in recent years through appropriations Acts and continuing appropriations resolutions--to override provisions of the Impact Aid law and specify a different system for distributing payments, which would make moot some or all changes resulting from the 1988 Amendments.

APPENDIX: ADDITIONAL AMENDMENTS TO P.L. 81-874 AND P.L. 81-815

PUBLIC LAW 81-874

Relevant P.L. 81-874 Section	P.L. 100-297 Provision
[Sec. 2011 of P.L. 100-297]	Makes various technical changes in the Act, for example, replacing the title "Commissioner" with "Secretary."
Sec. 2(a)	Amends sec. 2, instructing the Secretary of Education to apply the LEA's current real property tax rate to the current assessed value of the Federal property.
Sec. 3(d)(2)(B)(i)	Alters how the Secretary should determine if changes in local resources (the Local Contribution Rate [LCR]) should result in increased payments for 3(d)(2)(B) districts. The baseline for such determination (whether it involves a State average or the average of three comparable districts) is the percent increase or decrease from 2 years ago compared to 1 year ago.
Sec. 3(d)(2)(B)	Adds language on the computation of increased payments for 3(d)(2)(B) districts: -- The increased payment resulting from this subsection shall enable the district to provide a level of education "equal to the average of the three comparable districts in the State [which are used to determine if the district should receive supplemental funds] or the State average, whichever is greater." -- The district must "make a reasonable tax effort," which is defined as 80 percent of comparable districts' tax rates for general funds purchases. Payments will be reduced by

PUBLIC LAW 81-874

Relevant P.L. 81-874 Section	P.L. 100-297 Provision
Sec. 3(d)(2)(B) (continued)	the same percent that the comparable districts' average or the State average exceeds the district's rate. -- Districts that are completely made up of a military base ("coterminous military districts") automatically pass the 80 percent tax rate effort.
Sec. 3(d)(2)(D)	Provides that payments received under sec. 3 can be used for tuition payments for non-Indian students who live on nontaxable land and attend schools receiving Impact Aid funds based on students residing on Indian land. 13/
Sec. 3(d)(2)(E)	Involves the cash balance that 3(d)(2)(B) districts are permitted at the end of the year. This provision is intended to ensure that these "districts be allowed to have a cash position to provide for the smooth operations of their school." 14/
Sec. 3(d)(3)(B)(ii)	Limits the increase the Secretary may provide to districts with unusual geographic conditions to "expenditures necessitated by" such conditions.
Sec. 3(h)	Adds provision requiring that the minimum LCR for a coterminous military district cannot be less than 70 percent of the average per pupil expenditure in all States for the fiscal year 2 years previous, unless the payment would raise the district's per

13/ According to the Conference Report for H.R. 5 (H. Rept. 100-567), this amendment "corrects a provision in current law where non-Indian parents who reside on nontaxable land are being forced to pay tuition to send their children to schools where they are employed or schools that exist within the community." Congressional Record, Apr. 13, 1988. p. H1596.

14/ U.S. Congress. Committee on Labor and Human Resources. Report to Accompany S. 373. Senate Report No. 100-222, 100th Cong., 1st Sess. Washington, U.S. Govt. Print. Off., 1987. p. 52.

PUBLIC LAW 81-874--Continued

Relevant P.L. 81-874 Section	P.L. 100-297 Provision
Sec. 3(h) (continued)	pupil expenditure above that of the State. 15/ This provision does not apply if the State's equalization plan 16/ would prohibit a district from retaining these extra payments or would reduce State aid as a result of these payments.
Sec. 5(d)(2)(A)	The following categories of payment have been exempted from State calculations of equalization amounts: -- Heavily impacted districts [3(d)(2)(B)] -- Handicapped students [3(d)(2)(C)] -- Indians [3(d)(2)(D)] -- Unusual geographic factors [3(d)(3)(B)(ii)]
Sec. 6	Districts receiving payments under sec. 3 may also receive funds under sec. 6. 17/
Sec. 7(a)(1)	The Secretary is no longer allowed to designate disaster areas. These determinations are left to the Director of the Office of Emergency Planning and the State governor.
Sec. 7(a)(3)	Increases the minimum amount of disaster assistance from $1,000 or 1 percent of the district's operating budget to $10,000 or 5 percent of the budget, which ever is less. Funds available for this section are also available for sec. 16 of P.L. 81-815.

15/ According to the committee report on S. 373 (S. Rept. 100-222), the intent of this provision is to establish a floor for payments to coterminous districts. This provision applies only to a very small number of districts.

16/ Equalization in State school finance programs refers to adjustments in State payments per pupil to local school districts to account for differences in educational need or the district's ability to pay. For further information, see U.S. Library of Congress. Congressional Research Service. Federal Impact Aid and State School Finance Equalization Programs. CRS Report for Congress No. 87-589 S, by K. Forbis Jordan. Washington, 1987.

17/ According to the conference report for H.R. 5 (H. Rept. 100-567), this provision "permits the Department of Defense (DOD) to use its sec. 6 funds to provide additional payments to schools receiving sec. 3 funds." Congressional Record, Apr. 13, 1988. p. H1595.

PUBLIC LAW 81-874--Continued

Relevant P.L. 81-874 Section	P.L. 100-297 Provision
Sec. 7(d)	Requires the Secretary to approve or disapprove an application for sec. 7 funds within 90 days.
[Sec. 2018 of P.L. 100-297]	For fiscal years prior to FY 1989, for purposes of payments under sec. 3, property subsidized under sec. 8 of the United States Housing Act of 1937 (as amended) shall continue to be considered Federal property if the LEA claimed and received such payments in the previous fiscal year. Payments made prior to FY 1989 on behalf of such children "shall stand and such payments withheld or recovered shall be made or restored."
[Sec. 2020 of P.L. 100-297]	Establishes certain restrictions on the Department's regulatory process. No regulation can become final without a 90-day comment period. No regulation will become effective until the next fiscal year after it becomes final. With certain exceptions, no provision of a regulation can result in a retroactive recovery of funds. 18/
[Sec. 2021 of P.L. 100-297]	Makes certain updates to references to title I, II, and III of the Elementary and Secondary Education Act of 1965 (ESEA), changing them to chapter 1 and 2 of title I of the ESEA.

18/ The H.R. 5 Conference Report (H. Rept. 100-567) specifies that the conferees' intent is "that the provision of this title will take effect on the effective date of this Act even if the Secretary's regulations are delayed." Congressional Record, Apr. 13, 1988. p. H1596.

PUBLIC LAW 81-815

Relevant P.L. 81-815 Section	P.L. 100-297 Provision
[Sec. 2032 of P.L. 100-297]	Changes references to the Commissioner of the Office of Education to the Secretary of the Department of Education.
Sec. 16(a)(1)	Restricts use of disaster funds to areas declared disaster areas by the President.
Sec. 16(a)(5)	Limits funds to cases in which damages resulting from natural disasters are $10,000 or 5 percent of the district's current operating expenses, whichever is less.
[Sec. 2034 of P.L. 100-297]	Authorizes "such sums as may be necessary to carry out the provisions of" sec. 14 and to administer such provisions. Also provides that funds appropriated for sec. 14 (except those appropriated for administration) shall be available until expended.
[Sec. 6215 of P.L. 100-297]	Requires the Comptroller General to study the effectiveness of P.L. 81-815 and to submit a report and recommendations 1 year after the enactment of the Act.